

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

SAMANTHA MELVILLE,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendants.

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Cause No. 15-CV-00169-DB

PROPOSED DISCOVERY PLAN

Pursuant to Federal Rule of Civil Procedure 26(f), Plaintiff and Defendant (collectively, the “Parties”) jointly submit this Proposed Discovery Plan¹.

1. The Parties met for a Rule 26(f) conference and came to the following Discovery Plan:

2. **Disclosures under Rule 26(a)(i).** The Parties agree to exchange their Rule 26(a)(1) disclosures on or before August 14, 2015.

3. **Discovery Plan.** Basic discovery involving document production, interrogatories, requests for admission, and possibly party depositions will be needed early in the case in order for the Parties to gain a clearer idea of the facts. Such information is needed to fully evaluate the claims, defenses, and possible need for third parties. Such information is also needed to determine whether early settlement efforts will be effective.

4. **Limitations on Discovery.** The Parties do not presently anticipate any need to make changes in the discovery procedures contemplated by the Federal Rules of Civil Procedure

¹ Although Counsel for Plaintiff, Brian Crockett’s *pro hac vice* application has not been filed and Mr. Crockett has not been admitted to practice in the U.S. District Court for the Western District of Texas, Defendant represents to the Court that the Parties conferred and agreed to the matters referenced herein.

or the Local Rules.

5. **Electronic Discovery.** The Parties agree that any electronic media produced in this case shall be in nonnative or print format. If there is a compelling reason for production of certain items in native format, the Parties shall cooperate provided it is not unduly burdensome to do so, or the Parties may otherwise seek judicial intervention.

6. **Orders Under Rule 26(c) or 16(b) and (c).** The Parties are submitting together with this Proposed Discovery Plan a Proposed Scheduling Order which is attached hereto as Exhibit "A." The Parties do not seek any further orders under Rule 26(c) or 16(b) and (c) at this time.

7. **Confidential Information.** In the event the Parties determine that discovery involves confidential and/or trade secret information, the Parties agree, upon a showing that the documents are in fact confidential and/or trade secret information under the Federal Rules of Civil Procedure and Evidence or by agreement, to use a protective order substantially in the form of the Protective Order contained in Appendix H of the Local Court Rules of the United States District Court for the Western District of Texas.

8. **Clawback Agreement.** The Parties have also agreed, as incorporated herein, to provide for the right of "clawback" of privileged or otherwise protected materials which were or might be inadvertently produced by a party. As part of such Agreement, the Parties hereby agree that if privileged or protected information is inadvertently produced, the producing party may, by timely notice within ten (10) days following discovery of such production, assert the privilege or protection, and the receiving party shall return, without retaining a copy, all of the inadvertently produced materials, without waiver of the right to obtain a ruling from the Court that such materials are not privileged or otherwise protected. The party which inadvertently produced such materials

shall sequester such materials in the event *in camera* inspection is requested. The Parties recognize that the purpose of this Agreement is to ensure that the inadvertent production of privileged or otherwise protected materials does not cause such privilege or protection to be lost due to the inadvertent act of production, so long as the producing party establishes that the privilege or protection exists under the Federal Rules of Civil Procedure and Evidence

Respectfully submitted,

**MOUNCE, GREEN, MYERS,
SAFI, PAXSON & GALATZAN**

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